

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MILKO VILOMAR BORGE,)
Petitioner,)
v.) Civil Action No. 3:24-252
COLETTE PETERS, Director BOP, and) Judge Nora Barry Fischer
MICHAEL UNDERWOOD, Warden,) Magistrate Judge Keith Pesto
Respondents.

MEMORANDUM ORDER

AND NOW, this 3rd day of January, 2025, upon consideration of the Report and Recommendation filed by United States Magistrate Judge Keith A. Pesto on October 27, 2023, (Docket No. 9), recommending that the § 2241 habeas petition filed by Petitioner Milko Vilomar Borge against Colette Peters, Director BOP and Warden Underwood at FCI Loretto be dismissed preservice for failure to exhaust administrative remedies as to his claims that he was not awarded earned time credits due to an immigration detainer, Petitioner's objections which were timely filed within 14 days as directed by the Magistrate Judge, (Docket No. 10), wherein he fails to demonstrate that he exhausted administrative remedies, as required, this matter having been recently reassigned to the undersigned for prompt disposition of the matter, (Docket No. 11), and upon independent review of the record and de novo consideration of the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of this Court,

IT IS HEREBY ORDERED that Petitioner's Objections (Docket No. 10) are OVERRULED, as dismissal of this action, without prejudice, for failure to exhaust administrative remedies, is consistent with rulings made in this District, *see e.g., Saavedra-Ramirez v. Peters*, No. 3:23-CV-268-KAP, 2024 WL 2136679, at *2 (W.D. Pa. Mar. 12, 2024), report and

recommendation adopted, No. CV 3:23-268, 2024 WL 1550379 (W.D. Pa. Apr. 10, 2024), *appeal dismissed sub nom. Saavedra-Ramirez v. Dir. Fed. Bureau of Prisons*, No. 24-1738, 2024 WL 4677955 (3d Cir. July 18, 2024) (District Court upholding dismissal for failure to exhaust when the habeas petition was filed prior to the exhaustion of administrative remedies and appeal dismissed), and it further appears to the Court that Petitioner was subsequently transferred from FCI Loretto in Pennsylvania to FCI Oakdale in Louisiana and has separately initiated two new § 2241 habeas actions in the U.S. District Court for the Western District of Louisiana raising similar claims, i.e., *Vilomar-Borge v. Felipe Martinez, Warden*, Civ. A. No. 2:24-cv-00496-JDC-TPL (W.D. La. Apr. 12, 2024), and, *Vilomar-Borge v. Felipe Martinez, Jr. et al.*, Civ. A. No. 2:24-cv-1453-JDC-TPL, Docket No. 5 (W.D. La. Nov. 7, 2024), and wherein he admits in the latter case that a final order of removal was subsequently issued by Immigration and Customs Enforcement,

IT IS FURTHER ORDERED that the Petition (Docket No. 8) is DISMISSED, without prejudice, for failure to exhaust administrative remedies; and,

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

s/Nora Barry Fischer
 Nora Barry Fischer
 Senior U.S. District Judge

cc/ecf: Magistrate Judge Keith A. Pesto

cc: Milko Vilomar-Borge
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